

STATE OF NEW YORK

DIVISION OF TAX APPEALS

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In the Matter of the Petition :  
of :  
**MICHAEL ABDULMALIK** : DETERMINATION  
for Redetermination of a Deficiency or for Refund of New : DTA NO. 830947  
York State Personal Income Tax under Article 22 of the :  
Tax Law for the Year 2021. :

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Petitioner, Michael Abdulmalik, filed a petition for redetermination of a deficiency or for refund of New York State personal income tax under article 22 of the Tax Law for the year 2021.

On April 25, 2023, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition pursuant to 20 NYCRR 3000.9 (a) (4). The Division of Taxation, appearing by Amanda Hiller, Esq. (Peter B. Ostwald, Esq., of counsel), submitted a letter in support of the dismissal. Petitioner, appearing pro se, did not submit a response by May 25, 2023, which date began the 90-day period for the issuance of this determination. After due consideration of the documents submitted, Donna M. Gardiner, Supervising Administrative Law Judge, renders the following determination.

***ISSUE***

Whether the Division of Tax Appeals lacks jurisdiction over the petition.

***FINDINGS OF FACT***

1. Petitioner, Michael Abdulmalik, filed a petition with the Division of Tax Appeals on April 16, 2022.
2. The petition protests a notice of deficiency bearing assessment number L-055096361,

issued by the Division of Taxation (Division) on February 28, 2022.

3. The petition does not reference any other notice.
4. The petition was not signed.
5. On August 18, 2022, the Division of Tax Appeals made a written request to petitioner for him to sign the petition.
6. Petitioner did not sign the petition.
7. On April 25, 2023, the Division of Tax Appeals issued to petitioner a notice of intent to dismiss petition. The notice stated, in sum, that the Division of Tax Appeals lacked jurisdiction to review the merits of the petition because it was not in proper form.
8. On May 8, 2023, the Division submitted a letter in response to the notice of intent to dismiss petition that stated:

“[t]he Division is in receipt of the Notice of Intent to Dismiss the petition in the above referenced matter. As the petition submitted was not in proper form, as required by 20 NYCRR 3000.3 and Tax Law § 2008 because the petition is not signed on page 3, the Division is in agreement with the proposed dismissal.”
9. Petitioner did not submit a response to the notice of intent to dismiss petition.

### ***CONCLUSIONS OF LAW***

- A. All proceedings brought before the Division of Tax Appeals must be commenced by the filing of a petition in accordance with the requirements of Tax Law § 2008 (1) and 20 NYCRR 3000.3.
- B. Pursuant to 20 NYCRR 3000.3 (b) (7), a petition shall contain “the signature of the petitioner or the petitioner’s representative.”
- C. The petition filed in this matter was not filed in accordance with Tax Law § 2008 and 20 NYCRR 3000.3. Specifically, the petition was not signed (*see* 20 NYCRR 3000.3 [b] [7]).

D. On August 18, 2022, the Division of Tax Appeals made a written request asking petitioner to sign the petition. He failed to do so. Where petitioner fails to correct the petition within the time prescribed, the supervising administrative law judge will issue a notice of intent to dismiss petition (*see* 20 NYCRR 3000.3 [d] [2]). Such notice of intent to dismiss petition was issued on April 25, 2023. Petitioner failed to respond.

As petitioner failed to sign the petition, as required by Tax Law § 2008 (1), the Division of Tax Appeals lacks jurisdiction over the subject matter of the petition and, therefore, dismissal is warranted (*see* 20 NYCRR 3000.3 [d] [2]; 3000.9 [a] [4] [i]; *see Matter of Richardson*, Tax Appeals Tribunal, November 17, 2022).

E. It is ORDERED, on the motion of the supervising administrative law judge, that the petition is dismissed with prejudice as of this date.

DATED: Albany, New York  
August 10, 2023

/s/ Donna M. Gardiner  
SUPERVISING ADMINISTRATIVE LAW JUDGE